Supreme Court
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Case Number:

IN THE

Supreme Court of the United States

GARY LEFKOWITZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

Supplement to Petition for Writ Of Certiorari

Gary Lefkowitz

1299 Seaside Avenue
P. O. Box 3007 06548-041
San Pedro, California 90731-0207

Petitioner in Pro Se

3 pp

Petitioner Gary Lefkowitz hereby requests that the Honorable Justices of the Court consider this Supplement to the pending Petition for Writ of Certiorari.

This supplement is necessary due to two cases that have been decided by the Court after the filing of my Certiorari Petition with the Court. Those cases are: ***Martinez v. Court of Appeal of California***, Case No. 98-7809 (January 12, 2000) and ***Smith v. Robbins*** Case No. 98-1037 (January 19, 2000)

In Martinez, the Court held that "...the Sixth Amendment does not apply to Appellate proceedings...", and suggested that the right to counsel on appeal flows from the Fifth Amendment Due Process Clause. In Smith, this Court states that "the precise rationale for the Griffin and Douglas line of cases has never been explicitly stated, some support being derived from the Equal Protection Clause of the Fourteenth Amendment and some from the Due Process Clause". It is clear from both of these decisions that the Court is grounding the right to counsel on appeal on the Due Process Clause of the Fifth Amendment rather than on the Sixth Amendment.

Unfortunately, I grounded the Fourth Question Presented to this Court on Sixth Amendment grounds rather than upon Fifth Amendment grounds. Accordingly, I hereby request that the Fourth Question Presented to the Court delete the words "Sixth Amendment". The question should now read:

IS AN APPEAL FROM AN AMENDED JUDGMENT A "CRITICAL STAGE" THAT TRIGGERS THE RIGHT TO COUNSEL.

Similarly, I request that the reference to the Sixth Amendments set forth on pages 1, 6, and 26 be stricken and that the word "Fifth Amendment" be considered in place and in stead.

Respectfully submitted,

Gary Lefkowitz
1299 Seaside Avenue
P. O. Box 3007 06548-041
San Pedro, California 90731-0207

Petitioner in Pro Se